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EXAMINER

LANIER, BENJAMIN E

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/642,531
Filing Date: August 18, 2000
Appellant(s): HENDRIKS ET AL.

MAILED

APR 29 2005

Technology Center 2100

William E. Lewis
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 24 February 2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 3 and 13 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

The rejection of claims 1, 4-9, 11, and 14-23 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

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The rejection of claims 2, 10, and 12 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,577,120	PENZIAS	11-1996
4,993,068	PIOSENKA	2-1991

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

1. Claims 3, 13 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. How can identifiers being assigned to a user before the user enters data or establishes an association with the computing devices? The user would be unknown at this point and assigning and identifier to this user would not be possible.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1, 4-9, 11, 14-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Penzias, U.S. Patent No. 5,577,120. Referring to claims 1, 4-6, 8, 9, 11, 14-16, 18-23, Penzias discloses a method for retail transaction identification wherein a purchaser is required to provide identification information along with biometric information, at a point of sale terminal, in the form of either height, weight, eye/hair color, fingerprint, iris image, or voice print in order to purchase a certain product. At the time of purchase, the purchaser's identification information, biometric information, and information about the transaction itself (data unit) is stored, which meets the limitation of associating one or more identifiers with data units respectively entered by one or more users at at least one of the two or more collaborative computing devices so that data entered by one or more is uniquely identifiable in the distributed collaborative computing system. The stored information is recoverable upon authorization by a central maintenance agency (Col. 2, line 37 – Col. 3, line 52), which meets the limitation of storing the data units and the one or more associated unique identifiers, the stored data units and associate unique identifier being accessible to the two or more collaborative computing devices in the distributed collaborative computing system in accordance with the collaborative application.

Referring to claims 7, 17, Penzias discloses that the identification information can be information contained on a transaction card that the user scans into a card reader at the time of transaction to read identification information such as the purchaser's name, address, social security number, etc. (Col. 2, lines 37-54), which would meet the limitation of determining an identifier via a personal code automatically sensed through an input device used by the user to enter the data units.

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 10, 12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Penzias, U.S. Patent No. 5,577,120, in view of Piosenka, U.S. Patent No. 4,993,068. Referring to claims 2, 10, 12, Penzias discloses a method for retail transaction identification wherein a purchaser is required to provide identification information along with biometric information, at a point of sale terminal, in the form of either height, weight, eye/hair color, fingerprint, iris image, or voice print in order to purchase a certain product. At the time of purchase, the purchaser's identification information, biometric information, and information about the transaction itself (data unit) is stored, which meets the limitation of associating one or more identifiers with data units respectively entered by one or more users at at least one of the two or more collaborative computing devices so that data entered by one or more is uniquely identifiable in the distributed collaborative computing system. The stored information is recoverable upon authorization by a central maintenance agency (Col. 2, line 37 – Col. 3, line 52), which meets the limitation of storing the data units and the one or more associated unique identifiers, the stored data units and associate unique identifier being accessible to the two or more collaborative computing devices in the distributed collaborative computing system in accordance with the collaborative application. Penzias does not disclose that the point of sale terminals accepts signature biometric information. Piosenka discloses a personal identification system wherein the biometric terminal accepts dynamic signatures via a pressure sensitive tablet (Col. 5, lines 20-27, Fig. 1)(whiteboard

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system). It would have been obvious to one of ordinary skill in art at the time the invention was made to authenticate the purchasers of Penzias using dynamic signature via pressure sensitive tablets in order to provide universally accepted personal identification information as taught in Piosenka (Col. 2, lines 43-48).

(11) *Response to Argument*

Applicant's argument that because claims 3 and 13 are recited with the transitional phrase "comprising" that they are excluded from including additional unrecited elements or method steps into the claims and would therefore make claims 3 and 13 operable is not persuasive because the transitional phrase "comprising" does not mean that the Applicant can omit essential steps. Applicant contends that a system administrator for the collaborative computing system could assign the identifiers to the one or more users before data units are entered by the one or more users, and the Examiner stated in the Advisory Action (Page 2) mailed 26 January 2005, that claims 3 and 13 are inoperable because the system administrator would have no prior knowledge of the users before the users enter the data units and that there is no indication in the claim language to suggest that these users have been previously registered and would therefore be able to have identifiers associated with them. Applicant responded by stating that because the independent claims to which claims 3 and 13 depend are recited with the transitional phrase "comprising" that they are excluding from including such teachings within the claims (Appeal Brief, Page 5, Paragraph 2). This missing essential teaching of a registration, or equivalent process, is essential to create an association between the users who register and the computing system with whom they register. Without this teaching, there can be no association made between the computing system in question, and a group of what would be random users. In

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addition to claims missing this essential teaching, the Applicant has failed to point out support in the specification for such a teaching. Therefore, claims 3 and 13 are inoperable because neither the claims or the specification disclose the essential step of registering, or an equivalent process, the users to create an association between the users and the collaborative computing system.

Applicant's argument that the transaction system of Penzias does not meet the limitation of a collaborative computing system is not persuasive because during examination Applicant is given a broad but reasonable interpretation of "a collaborative computing system" and the Applicant is trying to import meaning into "a collaborative computing system" that simply is not claimed. Penzias discloses a method for conducting a retail transaction wherein users and a point of sale terminal work in conjunction with a central maintenance agent (Col. 2, line 37 – Col. 3, line 52) to conduct a retail transaction. This system of Penzias meets the limitation of "a collaborative computing system" using a broad but reasonable interpretation. Applicant is arguing for features that are not in the claims to distinguish from the prior art (Appeal Brief, Page 7, Paragraphs 1-3). Furthermore, the Examiner can find no teaching in the claim language or any definition of the word collaborate to insinuate that collaboration must occur between human beings as Applicant appears to suggest (Appeal Brief, Page 7, Paragraphs 1-2). Therefore, Applicant's argument that a collaborative computing system is one which allows individuals at different locations to work together for some joint purpose is not persuasive because this limitation is not including in the claim language.

Applicant's argument that Penzias does not disclose a user settable switch is not persuasive because Penzias discloses that a user can enter identification information in the form of height, weight, eye/hair color, fingerprint, iris image, or voice prints in order to purchase a

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certain product (Col. 2, lines 1-6). In event the user enters identification information in the form of a fingerprint, the user would place a finger on a fingerprint-scanning pad in order to obtain a fingerprint sample from the user. When the user presses their finger down on this pad, it actuates an acquisition phase for the device to capture the fingerprint sample. This actuation of the pad would meet the limitation of “a user selectable switch” because it permits the user to enter their unique identifiable code using the input device. Therefore, the above teaching of Penzias meets the limitation of claim 21.

Applicant’s argument that Penzias does not disclose a personal area network system associated with an input device for permitting automatic entry of a unique identifiable code, where a personal area network is commonly defined as a network allowing the interconnection of information technology devices with the range of an individual person, is not persuasive because Penzias discloses the transmission of a unique identifier from a smart card to a point of sale terminal that is in the range of the user (Col. 5, lines 41-53). Therefore, Penzias meets the limitation of claim 22 because have a smart card interface with a point of sale terminal to distribute information is clearly an interconnection of information technology devices within the range of an individual person.

Applicant’s argument that the Examiner’s stated motivation for combining the Penzias and Piosenka references is inadequate is not persuasive because Penzias discloses, as mentioned above, that a user can enter identification information in the form of height, weight, eye/hair color, fingerprint, iris image, or voice prints in order to purchase a certain product (Col. 2, lines 1-6). Penzias does not disclose the entered identification information is in the form of as actual signature. Piosenka discloses a personal identification system wherein the biometric terminal

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accepts signatures via a pressure sensitive table (Col. 5, lines 20-27 & Figure 1), which would meets the limitation of a whiteboard system and biometric data being converted to compressed form and transmitted to a pen sensing unit. This combination would have been obvious to one of ordinary skill in the art at the time the invention was made in order to authenticate the purchases of Penzias using another universally accepted form of personal identification information as taught by Piosenka (Col. 2, lines 43-48). Since Piosenka discloses that signature information is a universally accepted form of identification information then it is clearly objective evidence of record. Therefore, Piosenka provides objective evidence of record that would have motivated one skilled in the art to substitute a signature form of biometric information for one of the many other universally acceptable forms of biometric information that is disclosed in Penzias.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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April 26, 2005

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